



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Disposition of City owned property adjacent to 1801-2028 Edgewood Drive.

MEETING DATE: June 18, 1997

PREPARED BY: Community Development Director

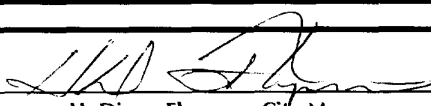
RECOMMENDED ACTION: Offer to sell the City property adjacent to the subject parcels for an amount equal to \$.80 per square foot.

BACKGROUND INFORMATION: As the City Council may recall, this item came before you on September 18, 1996. Mr. Wiesz, the owner at 1936 Edgewood Drive, requested to build the swimming pool that was denied by staff because it straddled the rear property line and encroached onto City owned property.

The City Council directed staff to have an appraisal prepared and to share the information with the balance of the property owners along Edgewood Drive who have similar conditions. An appraisal was completed by Swanberg & Associates with a value placed on the City property of \$.80 per square foot. In April, a letter was sent to all of the property owners that have a contiguous property line with the City land adjacent to the levee. Of the eighteen properties, four owners contacted me to give their preference of options. The alternatives outlined were as follows:

- A. Do nothing. In other words, allow the current situation to exist as is and wait for another issue to bring this to our attention. This is not our preferred alternative because it does not address the issue.
- B. Sell the strip of property to the adjacent owners. The City Council has authorized an appraisal of the property. If the Council so chooses, sale could take place at the appraised amount which is \$.80 per square foot.
- C. Provide for an Encroachment Permit to be issued to any owner of property that has in fact done so. Some caveats may be placed on this permit; such as, naming the City as an additional insured on your homeowner's insurance policy.

APPROVED: _____


H. Dixon Flynn -- City Manager

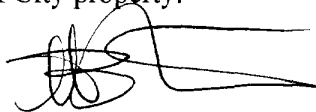
Council Communication

Meeting Date: June 18, 1997

Page 2

As mentioned, four owners responded to my request for comments. Three owners stated their desire to purchase the strip and one preferred to do nothing, but understood the City's need for an encroachment permit. At this time, it is staff's recommendation that the City Council offer the strip for sale to any property owner who chooses to purchase at the appraised value. The strip should include the slope of the levee. Finally, we believe it would be prudent to direct the City Attorney to draft language for a covenant that can be recorded on those properties whose owners have improvements on City property but are not desirous of buying that strip. This recorded instrument would put all future owners on notice about the encroachment and provide for some level of liability protection for the City.

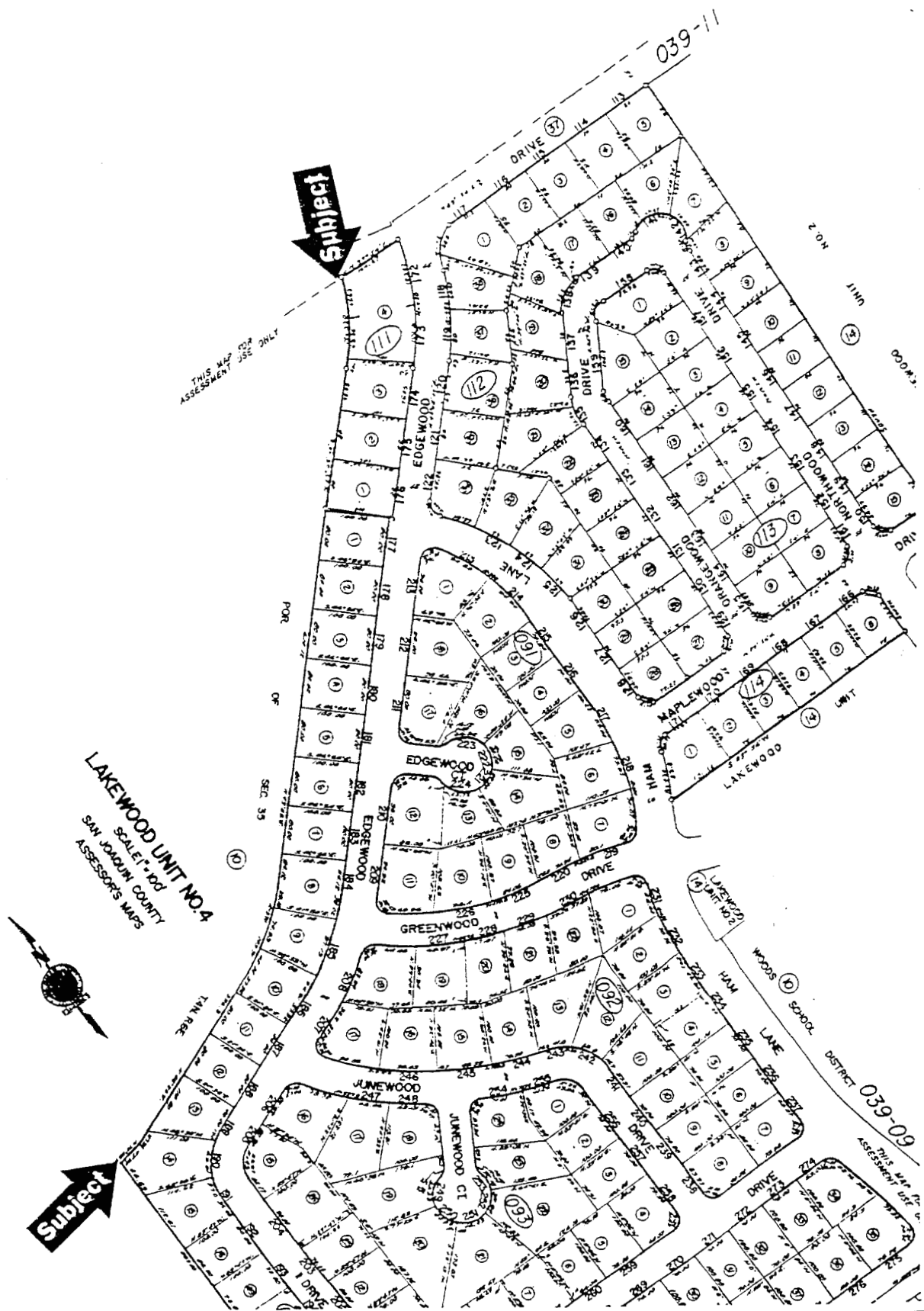
FUNDING: Potential revenue from the sale of City property.

A handwritten signature in black ink, appearing to read 'KB', with a long horizontal line extending to the right.

Konradt Bartlam
Community Development Director

KB/lw

Attachments



CITY COUNCIL

PHILLIP A. PENNINO, Mayor

JACK A. SIEGLOCK

Mayor Pro Tempore

KEITH LAND

STEPHEN J. MANN

DAVID P. WARNER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

FAX (209) 333-6842

H. DIXON FLYNN

City Manager

JENNIFER M. PERRIN

City Clerk

RANDALL A. HAYS

City Attorney

April 4, 1997

«FirstName» «LastName»

«Address1»

«City», «State» «PostalCode»

Dear «FirstName» «LastName»:

Some months ago, a situation was brought to the City's attention regarding a strip of land that lies behind property you own on Edgewood Drive in Lodi. This letter is being sent to you in an effort to disclose the situation and ask your assistance in providing a solution to the problem.

As you may know, your rear property line generally follows along the existing power poles in your backyard. The property from that point to and including the levee, is owned by the City of Lodi. Many properties along the levee have improvements that encroach onto City property.

Understanding that many years may have past since those improvements were made and the on-going maintenance and enjoyment of the property, the City is now faced with a number of options on how to deal with the situation.

To this date, City staff have outlined some alternatives we feel are available for the City Council to consider. They are as follows:

- A. Do nothing. In other words, allow the current situation to exist as is and wait for another issue to bring this to our attention. This is not our preferred alternative because it really does not address the issue.
- B. Sell the strip of property to the adjacent owners. The City Council has authorized an appraisal of the property. If the Council so chooses, sale could take place at the appraised amount which is \$.80 per square foot.

- C. Provide for an Encroachment Permit to be issued to any owner of property that has in fact done so. Some caveats may be placed on this permit; such as, naming the City as an additional insured on your homeowner's insurance policy.

Once again, our desire at this point is to inform you of the situation, outline options that have been discussed, and ask for your comments and suggestions. The final decision on this issue rests with the City Council. Staff will present this to them at a future meeting that you will be notified about.

Please call me with your comments at your convenience at 333-6711.

Sincerely,

Konradt Bartlam
Community Development Director

KB/lw



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: June 18, 1997

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Perrin

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, June 18, 1997** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) To receive public comment on the Northern California Power Agency Integrated Resource Plan (IRP)

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, P.O. Box 3006, at or prior to the Public Hearing.


Alice M. Reimche
Acting City Clerk

Dated: June 4, 1997

Approved as to form:



Randall A. Hays
City Attorney

A-3

Frank C. Sr. and Helen C. Aleg.
2000 Edgewood Drive
Lodi, California 95242
(209) 334-2112
(209) 367-0572 fax

June 17, 1997

Sent via fax to (209) 333-6842

Mr. Konradt Bartlam
Community Development Director
City of Lodi
221 West Pine Street
Lodi, California 95240

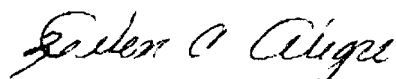
Dear Mr. Bartlam,

We are in receipt of your letters dated April 4th and June 11th. Though we are uncertain of the exact square footage we are willing to purchase the property from the City for the appraised value of \$0.80 per square foot. I am sending this letter to let you know how we feel, as we will be out of town Wednesday, June 18th and unable to attend the meeting. If you should have any questions please call Renne at the above number she can get a message to us.

Thank you for all your help in advance.

Please forward a copy of this letter to Mayor Pennino and each member of the Lodi City Council.

Sincerely,



Frank C. Alegre Sr. and Helen C. Alegre

4-3

Mr. and Mrs. Dennis Seibel
1918 Edgewood Drive
#180



Re: Alledged encroachment on city property.

Dear Mr. Konradt Bartlam,

I purchased lot #180, Lakewood #4 on July 26, 1967.

We began construction on the property in the spring of 1988 and completed construction and took residence in said property on Feb. 4, 1989. We have never, until now, been advised of any encroachment problems. We executed open and notorious use of the property for over the prescribed period of 5 years; we have used it for over eight years. Also, as we have no telephone poles on our property and none of our trees have invaded the territory of the telephone, and/or, power lines, they are only in air space above our property.

This land was purchased by me with the understanding that it was an 80' by 100' lot with no exceptions.

We will, as in the past, grant permission for city employees, as is necessary, but feel no obligation to purchase the easement property.

Sincerely,

Dennis Seibel

Dennis Seibel

James A. & Lucille Beckman
1906 Edgewood Drive
Lodi, CA 95240
Tel (209) 369-6203
Fax (209) 369-4779

June 16, 1997

Via Fax to (209) 333-6842

Mr. Konradt Bartlam
Community Development Director
City of Lodi
221 West Pine Street
Lodi, CA 95240

Dear Mr. Bartlam:

This is to acknowledge receipt of your letters dated April 4, 1997 and June 11, 1997 regarding a property encroachment claim by the City and the three alternatives to settle the claim that staff is proposing to the City Counsel. We own Lot 177 in the Lakewood Unit No. 4 area of the City.

While we are uncertain specifically how many square feet of our backyard property the City believes is included in an encroachment, our home was built by the original owners in early 1978 and the backyard landscaping, fencing and swimming pool (swimming pool Building Permit No. 9362 dated May 2, 1978) was installed in the same year. In fact, the swimming pool drawings approved by the City showed that backyard perimeter fences were already in place when the pool was designed and built.

When we purchased the property in 1984, we did so with the understanding and reliance that the property line dividing our backyard and the Lodi Lake Wilderness Area was at the existing fence line, and that, according to the Preliminary Title Report, the City of Lodi had an eight-foot strip easement across the Northwesterly portion of our property for the public utility lines. Since the power pole in our backyard has eight foot crossarms, we assumed that the easement across our property was for the power lines.

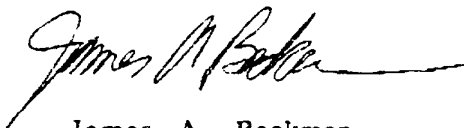
While we do not use any of the City-owned property behind the fence line, since 1984, we have, for aesthetic reasons, continued to invest time and money in the maintenance of the ground cover and oak trees on both slopes of the levee behind our property. There have been many times over the years where City employees have requested and been given access to our backyard to service the utility lines. At no time were we ever advised that our use of any portion of our backyard within the fence line was an encroachment on City property.

If indeed our backyard fence does encroach on City property, it has done so for nearly 20 years and we believe, under the circumstances, we are not obligated to purchase the strip of property at the appraised value of \$0.80 per square foot. We believe our past and continued use of any City-owned strip of land creates an implied easement. In order to eliminate future City liability related to any property in our backyard that may be covered by such an implied easement, we suggest that the ownership of any portion of our backyard which is determined to encroach on City property be transferred by the City to our name by means of a Quit Claim Deed which can be officially recorded to settle this issue. Under such arrangement, we would continue our use and enjoyment of the strip of property within the existing fence line and the City would eliminate any burden of liability that may now exist. Is this something that staff would be willing to recommend to the Council?

I am currently scheduled to be traveling out of town on business the week of June 16 and will be unable to attend the June 18 City Council meeting where this issue will be addressed. In the meantime, if you have any questions, please do not hesitate to contact me or my wife. If I am traveling, I will receive your message and return your call.

Please ensure that a copy of this letter is provided to each Council member in advance of the June 18 meeting.

Sincerely,



James A. Beckman

JAB/